

EXHIBIT E

1 THOMAS M. FERLAUTO (SBN 155503)
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8 Attorney for Plaintiff, JOSHUA ASSIFF

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 **JOSHUA ASSIFF,**

12 **Plaintiff,**

13 **v.**

14 **COUNTY OF LOS ANGELES;**
15 **SHERIFF DEPUTY BADGE**
16 **NUMBER 404532;**
17 **And DOES 1 through 10,**

18 **Defendants.**

Case No. 2:22-cv-05367 RGK (MAAx)

**RESPONSE TO REQUEST FOR
PRODUCTION OF DOCUMENTS
PROPOUNDED BY SERGEANT
KELLY, SET ONE**

19
20 PROPOUNDING PARTY: SERGEANT KELLY

21 RESPONDING PARTY: JOSHUA ASSIFF

22 SET NUMBER: ONE

23 **PRELIMINARY STATEMENT**

24 Responding Party has made a good faith and reasonable effort to respond to
25 Propounding Party's Requests For Production and, based on that effort, submits the
26 following Responses. However, Responding Party has not completed Responding
27 Party's investigation or discovery related to this action and has not completed
28 preparation for trial. The following Responses are based on Responding Party's

1 knowledge, information and belief at this time, and Responding Party specifically
2 reserves the right to amend or supplement any Response contained herein.
3 Responding Party also reserves the right to refer to, to conduct discovery with
4 reference to, or to offer into evidence at the time of trial, any and all facts, evidence,
5 documents and other things developed during the course of discovery and trial
6 preparation, notwithstanding the reference to facts, evidence, documents and other
7 things in these Responses. In addition, Responding Party assumes no obligation to
8 voluntarily supplement or amend these Responses to reflect information, evidence,
9 documents or other things discovered following service of these Responses.
10 Nevertheless, these Responses are given without prejudice to subsequent revision or
11 supplementation, including objections, based upon any information, evidence and
12 documentation, which hereinafter may be discovered.

13 To the extent Responding Party understands each individual Document
14 Request, Responding Party hereby submits these Responses as follows:

15
16 **REQUEST FOR PRODUCTION NO. 1:**

17 All records from healthcare providers which evidence consultation and
18 treatment for injuries being claimed in this action (including, but not limited to,
19 medical records, notes, recommendations for treatment).

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

21 Responding party will produce all responsive documents in Responding
22 Party's possession, custody or control.

23
24 **REQUEST FOR PRODUCTION NO. 2:**

25 All documents which evidence any of the special damages being claimed in
26 this action (including, but not limited to, bills, invoices and/or statements).

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**
28

1 Responding party will produce all responsive documents in Responding
2 Party's possession, custody or control.

3
4 **REQUEST FOR PRODUCTION NO. 3:**

5 All documentation evidencing payment, by any source whatsoever, of the
6 special damages being claimed as a compensable item of damage in this case,
7 including but not limited to, receipts, canceled checks, insurance payments.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

9 Responding party will produce all responsive documents in Responding
10 Party's possession, custody or control.

11
12 **REQUEST FOR PRODUCTION NO. 4:**

13 All statements (including but not limited to all oral, written or recorded
14 statements) of anyone purporting to have knowledge of any of the facts or
15 circumstances involved in this case.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

17 Responding party is not aware of any responsive documents in Responding
18 Party's possession, custody or control, because no responsive documents are believed
19 to have ever existed.

20 **REQUEST FOR PRODUCTION NO. 5:**

21 Any and all policies of medical, health and disability insurance which were or
22 are in force and providing coverage for any and all losses or damages claimed in this
23 action.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

25 Responding party will produce all responsive documents in Responding
26 Party's possession, custody or control.

27
28 **REQUEST FOR PRODUCTION NO. 6:**

1 Any and all correspondence sent to or received from anyone, other than the
2 party's own attorney, concerning the facts, circumstances and/or claimed damages in
3 this action.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

5 Responding party is not aware of any responsive documents in Responding
6 Party's possession, custody or control, because no responsive documents are believed
7 to have ever existed.

8
9 **REQUEST FOR PRODUCTION NO. 7:**

10 Any and all notes, calendars, diaries, journals, or memoranda concerning the
11 facts and circumstances giving rise to this claim.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

13 Responding party is not aware of any responsive documents in
14 Responding Party's possession, custody or control, because no responsive documents
15 are believed to have ever existed.

16 **REQUEST FOR PRODUCTION NO. 8:**

17 Any and all medication containers, labels, prescriptions, notes and/or letters
18 from any health care provider concerning treatment received by plaintiff.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

20 Responding party will produce all responsive documents in Responding
21 Party's possession, custody or control.

22 **REQUEST FOR PRODUCTION NO. 9:**

23 Photographs, slides and movies of plaintiff depicting the plaintiff and any and
24 all injuries and conditions claimed as damages in this action 5 years before, during
25 and 5 years after the alleged incident serving as a basis for the present lawsuit.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

27 OBJECTION. The time frame sought makes this request over broad and seeks
28 documents not relevant to the subject matter of this lawsuit and not reasonably

1 calculated to lead to the discovery of admissible evidence. The request seeks
2 documents outside the scope of discovery. The request seeks documents that violate
3 the right of privacy of Responding Party and third parties. Plaintiff has already
4 produced the photographs of Plaintiff taken shortly after the incident.

5
6 **REQUEST FOR PRODUCTION NO. 10:**

7 Any and all documents, bills, receipts, tax information, business ledgers or any
8 other writings which reflect the nature and/or amount of any loss of earnings plaintiff
9 is contending as a result of the incident sued upon herein.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

11 Responding party is not aware of any responsive documents in
12 Responding Party's possession, custody or control, because no responsive documents
13 are believed to have ever existed.

14 **REQUEST FOR PRODUCTION NO. 11:**

15 Any and all documents which support your first cause of action for "Violation
16 of 42 USC 1983" set forth in your Complaint against these Defendants.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

18 OBJECTION. This category seeks documents protected by the attorney client
19 communication privilege and the attorney work product doctrine. Without waiving
20 this objection, Responding Party will produce all responsive non-objectionable
21 documents in Responding Party's possession, custody or control.

22
23 DATED: February 24, 2023 The Law Office Of Thomas M. Ferlauto, APC

24
25
26 By: 
27 Thomas M. Ferlauto
28 Attorney For: Plaintiff, JOSHUA ASSIFF

VERIFICATION

I, Joshua Assiff, declare as follows:

I am a party this action. I have reviewed the document attached hereto entitled:

**RESPONSE TO REQUEST FOR PRODUCTION OF
DOCUMENTS PROPOUNDED BY SERGEANT KELLY, SET
ONE**

and I know its contents.

The responses set forth therein are true of my own personal knowledge, except for those portions stated on information and belief. As for the portions stated on information and belief, I believe them to be true based upon the information available to me.

I declare under penalty of perjury under the laws of California and of the United States of America that the foregoing is true and correct. Executed this ____ day of February 2023, in Los Angeles County, California.


JOSHUA ASSIFF

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 25201 Paseo de Alicia, Suite 270, Laguna Hills, CA 92653. On February 24, 2023, I served the foregoing document(s) described as:

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS PROPOUNDED BY COUNTY OF LOS ANGELES, SET ONE
RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS PROPOUNDED BY SERGEANT KELLY, SET ONE
RESPONSE TO SPECIAL INTERROGATORIES PROPOUNDED BY COUNTY OF LOS ANGELES, SET ONE
RESPONSE TO SPECIAL INTERROGATORIES PROPOUNDED BY SERGEANT KELLY, SET ONE
RESPONSE TO REQUEST FOR ADMISSIONS PROPOUNDED BY COUNTY OF LOS ANGELES, SET ONE
RESPONSE TO REQUEST FOR ADMISSIONS PROPOUNDED BY SERGEANT KELLY, SET ONE

☒ **ELECTRONIC MAIL:** The foregoing document was served electronically without any errors noted at the email addresses stated below:

PATRICK E. STOCKALPER
MOLSHREE GUPTA
KJAR, MCKENNA & STOCKALPER, LLP
841 Apollo Street, Suite 100
El Segundo, California 90245
Telephone (424) 217-3026
Facsimile (424) 367-0400
pstockalper@kmslegal.com
mgupta@kmslegal.com

☐ **BY MAIL AS FOLLOWS:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice the above described envelope(s) would be deposited with the US Postal Service on that same day with postage thereon fully prepaid at Laguna Hills, California in the ordinary course of business.

Executed on February 24, 2023, at Irvine, California. I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.



Thomas M. Ferlauto

PAYAM YERMIAN, D.C.
3200 SANTA MONICA BLVD.
SUITE 101
SANTA MONICA, CA. 90404
(310) 828-8808

Patient : Assiff, Joshua
D.O.I. : 09-24-21

To Whom It May Concern:

Mr. Assiff reported to my office on September 30, 2021 as a result of the injuries he sustained in an incident on September 24, 2021.

HISTORY OF THE ACCIDENT

As stated by the patient, he was pulled over by the Sheriff officers subsequently he was pepper sprayed which decreased his ability to see when he was instructed to get out of the car was pulled out of the vehicle while put in headlock then he was thrown on the ground tased and while on the ground a deputy had their knee on his upper back and lower neck. Due to his symptoms he reported to Kaiser urgent care where he was examined and released. Over the course of the next few days his symptoms were getting progressively worse and more numerous he reported to this facility on September 30, 2021 for evaluation and treatment. He has tried icing the effected areas along with utilizing OTC medications for his symptoms along with rest which have not been effective.

PAST MEDICAL HISTORY

The patient states that he is in good general health and that he led an active lifestyle before the incident. Otherwise the patient's past medical history is noncontributory in this case and he reports that he was asymptomatic of his current musculoskeletal symptomatology before this incident on September 24, 2021.

PRESENTING COMPLAINTS

- Neck pain and stiffness extending across bilateral shoulders especially on the left with radiation into the interscapular area esp. left and radiculopathy of the upper arm; constant, moderate to severe in nature.
- Upper back pain and stiffness especially on the left; constant, moderate in nature.
- Bilateral shoulder pain and stiffness; constant, slight to moderate in nature.
- Bruising over the face and body along with abrasions and puncture wounds over the trunk and flanks.
- Temporoparietal and occipital headaches; constant, moderate in nature.
- Difficulty sleeping at night due to pain and discomfort.

Patient : Assiff, Joshua
D.O.B. : 09-24-21

PHYSICAL EXAMINATION AND FINDINGS

Even though a comprehensive physical examination was performed at my office the following reflects only the positive findings of the examination.

At the time of the examination the patient a 20 year old male appeared as an alert, responsive and cooperative individual. However due to his presenting complaints he was slightly distressed and had difficulty in changing positions during examination. He also stated that he has difficulty sleeping at nights due to his symptoms and the pain wakes him from sleep.

Height : 6'07"
Resp. : 13
Temp. : 98.2

Pulse : 76 BPM
Weight: 198 Lbs
BP : 122/74

HEAD:

Tenderness, bruising and abrasions was noted over face. However moderate to severe tenderness of the occipitals and suboccipitals was noted especially on the left.

CERVICAL SPINE:

Examination of the cervical spine revealed hypolordosis of the cervical spine. Upon inspection and palpation moderate to severe muscular hypertonicity and tenderness was noted over the following muscles bilaterally, suboccipitals, upper trapezius, scalenes and cervical paraspinals especially left. Furthermore nuchal tenderness was noted in this region along with slight inflammation especially on the left. Motion and digital palpation revealed multiple fixations in this area along with facet and spinous tenderness. Following orthopedic tests were positive at the time of this examination: Cervical Compression Test and Soto Hall Test increased localized neck pain, caused an increase in upper back pain symptomatology especially on the left and increased radiculopathy into the interscapular area and left upper arm. Cervical range of motion was as follows:

Flexion	30/45	Restricted and Painful
Extension	10/55	Restricted and Painful
Right Lateral Flexion	15/40	Restricted and Painful
Left Lateral Flexion	10/40	Restricted and Painful
Right Rotation	55/80	Restricted and Painful
Left Rotation	45/80	Restricted and Painful

THORACIC SPINE:

Palpation and inspection of the thoracic region revealed moderate to severe hypertonicity and tenderness over bilateral levator scapula and lower trapezius muscles especially on the left with presence of slight inflammation over the traps/levator scapular area. Furthermore tenderness of thoracic spinous processes and fixations of thoracic spine were

Patient : Assiff, Joshua
D.O.B. : 09-24-21

noted in the upper thoracic spine. Orthopedic tests of the cervical spine would cause radiation into the interscapular area as well. Puncture wounds, abrasions and bruising was noted over the back and trunk.

BILATERAL SHOULDERS:

Upon inspection and palpation of the shoulders slight to moderate tenderness was noted over the AC joints and rotator cuff musculature. The range of motion of the bilateral shoulders was slightly limited with pain in abduction and internal rotation. The following orthopedic tests were positive at the time of this exam; Apley's scratch test and Dugas test resulting in shoulder pain (due to the restricted range of motion and pain of the shoulder patient was not fully able to perform these tests). Hawkins test was also positive revealing possible impingement of the shoulders.

DIAGNOSIS:

- S13.4XXA Sprain Cervical spine
- M54.2 Cervicalgia
- S16.1XXA Strain cervical
- M99.01 Segmental dysfunction cervical spine
- S23.3XXA Sprain thoracic spine
- M54.6 Thoracic pain
- M62.830 Muscle spasm thoracic
- M99.02 Segmental dysfunction thoracic
- M25.511 Right shoulder pain
- M25.512 Left shoulder pain
- M62.838 Muscle spasms
- M79.1 Myalgia/Myofascial pain

TREATMENT PLAN:

Mr. Assiff's treatment consisted of conservative Chiropractic adjustments and physiotherapy modalities including cryotherapy, hot packs, electrical muscle stimulation, ultrasound, manual therapy techniques in conjunction with utilizing home care and stretching. These modalities and procedures were utilized in an attempt to induce muscle relaxation, increase range of motion and mobility, reduce inflammation, increase blood flow to the injured areas to promote tissue healing and restore strength and endurance. Furthermore the patient was further advised to undergo cervical spine MRI studies.

PROGNOSIS:

The patient was evaluated in my office on September 30, 2021 with symptomatology discussed earlier in this report. Following his evaluation, the patient began receiving chiropractic care along with physiotherapy treatments at this office in order to cure of and relieve the patient from the effects of his injuries. During the course of his treatment, the

Patient : Assiff, Joshua
D.O.I. : 09-24-21

patient responded slowly to the treatment plan with few episodes of exacerbations caused by his normal daily activities.

Eventually, Mr. Assiff was discharged from my active care on December 22, 2021 following a final examination and treatment. At the time of his discharge the patient was complaining of intermittent, slight at times moderate neck pain and stiffness extending across bilateral shoulders especially on the left with occasional radiation into the interscapular and left upper arm. Slight to moderate hypertonicity and tenderness was noted over the cervical paraspinals, levator scapulae and traps especially on the left with triggerpoints along these muscles. The range of motion of the cervical spine was restricted in extension, bilateral lateral flexion. Symptomatology was especially more pronounced in the early morning hours, playing basketball, working on the computer for short periods, overhead activities and physical activity. Fixations were located in the lower cervical spine and upper thoracic spine. At which point the patient was treated and asked to continue with home stretches along with heat and icing regimen. He was further advised to seek orthopedic evaluation for his neck, if his symptoms remains the same or gets exacerbated. He remains a candidate for MRI studies of the cervical spine.


At this time, it is my professional opinion that the patient has reached maximum medical improvement (MMI) for his musculoskeletal symptomatology through chiropractic care and physiotherapy treatments. It is also my professional opinion that overall prognosis for the patient is guarded, due to the force of the trauma, the severity of his symptomatology, the duration of treatment required for his symptomatology to improve. The patient was advised that he might require more aggressive forms of treatment including possible steroidal injections if his symptoms do not improve.

DISCUSSION:

An assessment of the patient's condition based on above noted examination findings, complaints and history as presented by the patient exhibited reasonable medical probability that the injuries he sustained were consistent with the nature of the incident as described. Therefore, it is my professional opinion that the subjective complaints, and objective findings were consistent and the patient did receive the injuries as a result of the incident which occurred on Sept 24, 2021.

Please feel free to contact me if you have any further questions regarding this matter.

Sincerely yours,



Payam Yermian, D.C.

APEX HEALTH CARE CENTER
3200 SANTA MONICA BLVD.
SUITE 101
SANTA MONICA, CA. 90404
(310) 828-8808

Re	:	Assiff, Joshua R.
D.O.I.	:	September 24, 2021

03-30-21	99203	New Patient Evaluation		\$165.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
	A4556	Electrodes		\$ 20.00
.				
10-01-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-04-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-06-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-08-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-11-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-13-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00

10-15-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-18-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-20-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-22-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-25-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-27-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
10-29-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
11-01-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
11-03-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00

11-08-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
11-10-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
	97035	Ultrasound		\$ 35.00
11-12-21	99212	Est. Patient Evaluation	25	\$ 65.00
	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
11-15-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
11-17-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
11-22-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
11-24-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
11-29-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
12-01-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
12-08-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00
12-15-21	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00
	97032	Electric Muscle Stimulation		\$ 35.00

12-22-21	99212	Est. Patient Evaluation	25	\$ 65.00
	98940	Manipulation(1-2 Regions)		\$ 40.00
	97140	Manual Therapy Techniques	59	\$ 35.00

TOTAL	\$ 3,880 .00
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- Even though Ice packs/Heat packs 97010 were utilized at each and every visit along with Electric Muscle Stimulation, this service was not billed.